

Decision 04-03-027 March 16, 2004

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking on the
Commission's On Motion into Monitoring
Performance of Operations Support Systems.

Rulemaking 97-10-016
(Filed October 9, 1997)

Order Instituting Investigation on the
Commission's Own Motion into Monitoring
Performance of Operations Support Systems.

Investigation 97-10-017
(Filed October 9, 1997)

**ORDER ADOPTING MINOR MODIFICATIONS TO
VERIZON CALIFORNIA, INC.'S PERFORMANCE MEASURE 45**

Summary

In this order, we adopt minor modifications to Verizon California Inc.'s (Verizon) Performance Measure (PM) 45 under the revised Joint Partial Settlement Agreement (JPSA), which is a document containing the operations and support systems (OSS) performance matrices for Pacific Bell Telephone Company, doing business as SBC California, and Verizon. The performance measures have been established to ensure that SBC California's and Verizon's OSS services to the competitive local exchange carriers (CLECs) do not present barriers to the CLECs' ability to offer consumers local phone service. Accordingly, the joint motion by Verizon and the participating CLECs seeking adoption of the modifications is granted.

Background

The original JPSA was adopted in Decision (D.) 99-08-020 and has been amended periodically to incorporate experience with the measures and to adapt

to market changes. The most recent revisions were made following the 2002 Performance Measurement review, and adopted on July 10, 2003.¹

On June 20, 2002, SBC California notified all parties to this proceeding, pursuant to Rule 51.1(b) of the Commission's Rules of Practice and Procedure (Rules), that settlement discussions would be held to discuss OSS performance measurements issues.² The assigned Administrative Law Judge held a pre-hearing conference (PHC) in October 2002 to evaluate the status of the parties' discussions. After the PHC, the parties agreed to file a joint motion containing the agreed-upon changes on January 31, 2003, and to file separate motions on February 7, 2003, regarding changes to which they did not agree.

On January 31, 2003, the parties filed the consensus changes joint motion that included all the items agreed upon by that date.³ Several parties⁴ continued to negotiate about PM 45 for Verizon. Subsequently, the Settling Parties reached agreement on clarifications to the measure.

PM 45 tracks incumbent local exchange carrier (ILEC) OSS change management process performance with separate measures for SBC California and Verizon. The measure for Verizon is defined as following:

¹ Decision (D.) 03-07-035, *Decision Approving Joint Partial Settlement Agreement Amendments*, (2003 JPSA), July 10, 2003.

² E-mail from Ed Kolto, SBC California, forwarded by Hugh Osborne, SBC California, to the OSS OII service list, June 20, 2002, Subject: OSS OII Rule 51.1 Notice re Formal JPSA Review.

³ SBC, Verizon, AT&T Communications of California, Inc. (AT&T), WorldCom, Inc. (presently doing business as MCI), Covad Communications Co. (Covad), XO California, Inc. (XO), and Time Warner Telecom of California (TWTC), *Joint Motion for Adoption of Amendments to Joint Partial Settlement Agreement Pursuant to Article 13.5 of the Commission's Rules of Practice and Procedure (Joint Motion)*, (January 31, 2003).

“This metric measures the percent of Change Management notices and associated documentation sent before implementation according to prescribed timeliness standards within prescribed timeframes. Notices include notifications and confirmations.” *2003 JPSA*, PM 45, Description.

On May 16, 2003, the Settling Parties filed a joint motion requesting that PM 45 be modified for Verizon in accordance with their agreement.⁵ In the motion, the parties asked that we not delay a determination on the more comprehensive changes set forth in the January 2003 joint motion, and rule on the new request separately if inclusion with the earlier would cause a delay. *Joint Motion* at 1, fn. 3. We did not delay action on the more comprehensive motion to incorporate these changes, and thus consider them now.

PM 45 Modifications for Verizon

The Settling Parties’ modifications clarify the method of calculation, the report structure, how performance is reported, the geographic level of reporting, the measurable standards, the exclusions, and the business rules. In sum, the PM 45 changes are technical clarifications. The Settling Parties agree that the purpose of these modifications is to “clarify and facilitate the operation of this measure for both Verizon and the CLECs.” *Joint Motion* at 2.

⁴ Verizon, AT&T, MCI, Covad, XO and TWTC, collectively called the Settling Parties.

⁵ *Joint Motion of Verizon California, Inc. (U1002C) and Participating CLECs Requesting Adoption of Minor Modifications to Measure 45, Change Management, (Joint Motion)* (May 16, 2003). The joint motion states “Covad Communications Company has represented to Verizon that Covad does not oppose the motion.”

The PM 45 revision appended to this order represents the Settling Parties' agreement solely for Verizon; it has no opposition. The Appendix sets forth the revisions we adopt today identified by highlighted text.⁶

Discussion

We have previously recognized California public policy favoring settlement. (*Re Pacific Bell*, D.92-07-076, 45 CPUC 2d 158, 169 (1992).) For the Commission to adopt a settlement, it must be "reasonable in light of the whole record, consistent with law, and in the public interest." (*Re Application of GTE California Inc. for Review of the Operations of the Incentive-Based Regulatory Framework Adopted in Decision 89-10-031*, D.96-05-037, *slip op.* (FOF 1) (May 8, 1996); Rule 51.1(e).)

The revised PM 45 details the manner by which the Commission will track Verizon's change management timeliness and compliance, and, in doing so, furthers our goal of measuring, analyzing, reviewing, and motivating the ILEC performance necessary to provide nondiscriminatory access to OSS, pursuant to 47 U.S.C. §§ 251 and 252. As we stated in D.03-07-035, the Settling Parties here also include many of the carriers that are the most directly affected by the standards by which Verizon's OSS is managed, and who now have considerable experience with this measure, both as a performance monitoring and performance motivating tool. We find that these parties are also well positioned to protect and advance the public interest goal of assessing PM 45's effect on competition. For these reasons, we conclude that the Verizon revised PM 45 settlement is reasonable in light of the whole record, consistent with the law, and

⁶ The "redlined" appendix reflects today's changes, with strikeover and underlining graphics documenting deletions and additions, respectively.

in the public interest. Accordingly, the Settling Parties' *Joint Motion* is granted, and revised PM 45 shall replace the existing PM 45 for Verizon.

Comments on Draft Decision

This is an uncontested matter in which the decision grants the requested relief. Therefore, pursuant to Section 311(g)(2) of the Public Utilities Code, the otherwise applicable 30-day period for public review and comment is being waived.

Assignment of Proceeding

Geoffrey F. Brown is the Assigned Commissioner and Jacqueline A. Reed is the assigned Administrative Law Judge in this proceeding.

Findings of Fact

1. The Commission adopted the original Joint Partial Settlement Agreement (JPSA) in D.99-08-020.
2. Periodically, the Commission has adopted amendments to incorporate carrier experience with the measures and to adapt to market changes.
3. On January 31, 2003, SBC California, Verizon, and the participating CLECs filed joint motions proposing comprehensive amendments to the JPSA that the Commission adopted in D.03-07-035.
4. After filing their joint motion, Verizon and the participating CLECs continued to negotiate modifications to Verizon's Change Management PM 45.
5. On May 16, 2003, Verizon and the participating CLECs filed a new joint motion as Settling Parties proposing modifications to Verizon's PM 45, and requesting that consideration of the changes not delay adoption of the January 2003 comprehensive amendments.
6. The PM 45 modifications are uncontested, technical clarifications, and apply solely to Verizon.

7. The Verizon PM 45 modifications clarify the method of calculation, the report structure, how performance is reported, the geographic level of reporting, the measurable standards, the exclusions, and the business rules.

Conclusions of Law

1. To be acceptable to the Commission, a settlement must be reasonable in light of the whole record, consistent with law, and in the public interest.
2. The Verizon PM 45 modifications further our goal of measuring, analyzing, reviewing, and motivating the ILEC performance necessary to provide nondiscriminatory access to OSS.
3. In advancing the goal of providing nondiscriminatory access to OSS, the Verizon PM 45 modifications are reasonable in light of the whole record, consistent with law, and in the public interest.
4. The Joint Motion of the Settling Parties should be approved.
5. Verizon's revised PM 45 should replace the existing Verizon PM 45.
6. This decision should be effective today so that the PM 45 revisions for Verizon can be promptly implemented.

O R D E R

IT IS ORDERED that:

1. The Joint Motion of Verizon California Inc., (Verizon), WorldCom, Inc., AT&T Communications of California, Inc., XO California, Inc., and Time Warner Telecom requesting adoption of minor modifications to the Joint Partial Settlement Agreement (JPSA) Performance Measure (PM) 45 is approved.
2. We adopt the revised JPSA PM 45 modifications for Verizon as presented in the Appendix to this decision.

This order is effective today.

Dated March 16, 2004, at San Francisco, California.

MICHAEL R. PEEVEY
President
CARL W. WOOD
LORETTA M. LYNCH
GEOFFREY F. BROWN
SUSAN P. KENNEDY
Commissioners

APPENDIX

[D0403027 APPENDIX TO R9710016 I9710017](#)